

IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

IN RE: §
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BROWNSVILLE MD VENTURES, LLC, §
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DEBTOR. §

CASE NO. 13-10341
CHAPTER 11

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY AS TO REAL PROPERTY
AND CASH COLLATERAL OF PINEDA GRANTOR TRUST II**

THIS IS A MOTION FOR RELIEF FROM THE AUTOMATIC STAY. IF IT IS GRANTED, THE MOVANT MAY ACT OUTSIDE OF THE BANKRUPTCY PROCESS. IF YOU DO NOT WANT THE STAY LIFTED, IMMEDIATELY CONTACT THE MOVING PARTY TO SETTLE. IF YOU CANNOT SETTLE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY AT LEAST 7 DAYS BEFORE THE HEARING. IF YOU CANNOT SETTLE, YOU MUST ATTEND THE HEARING. EVIDENCE MAY BE OFFERED AT THE HEARING AND THE COURT MAY RULE.

REPRSENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

THERE WILL BE A HEARING IN THIS MATTER ON MARCH 12, 2014 AT 9:00 A.M. IN THE BANKRUPTCY COURTROOM BEFORE THE U.S. BANKRUPTCY JUDGE AT 600 EAST HARRISON, THIRD FLOOR, BROWNSVILLE, TEXAS 78520.

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, PINEDA GRANTOR TRUST II ("Pineda"), and files this Motion for Relief from the Automatic Stay as to Real Property and Cash Collateral, and would show the Court as follows:

1. Pineda is a secured creditor of the Debtor having perfected liens on real estate and cash of the Debtor. Pineda has filed a Proof of Claim against the Debtor in the amount of \$13,661,845.29. Attached to the Proof of Claim are documents that evidence the security interest in and perfection of those interests.

2. Pineda holds a perfected deed of trust lien on real property owned by the Debtor described as:

Lot One (1), Block One (1), C.B.C SUBDIVISION NO. 2, a subdivision in the City of Brownsville, Cameron County, Texas, according to the map or plat thereof recorded in Cabinet 1, slot 1755-B, Map Records, Cameron County, Texas. (the "real property").

A copy of the documents evidencing perfection of the lien of Pineda are attached hereto as **Exhibit 1**.

3. Currently, the real property is vacant and is not generating any revenue on behalf of the Debtor. The real property has issues surrounding its ventilation and has mold exposure.

4. The Debtor also holds approximately \$450,000.00 in cash that represent proceeds resulting from claims associated with damage to the real property. The cash is clearly identifiable with and traceable to the litigation initiated by the Debtor and Brownsville Doctors Hospital ("BDH") as it concerns the damages to the real property as a result of the construction defects in the building.

5. Pursuant to the Deed of Trust that the Debtor executed, all claims associated with the building and real property were assigned to the lender. As Pineda has been assigned the Deed of Trust, Pineda has also been assigned these claims.

6. BDH was the former tenant of the Debtor and owes past due rents to the Debtor. To the extent that the cash proceeds represents rents paid to the Debtor by BDH, Pineda holds a perfected security interest in rents collected by the Debtor.

7. Pineda contends that there exists a lack of equity in the real property and cash collateral based on the indebtedness owed to Pineda. In reference to the real property, Pineda believes that the value of the real estate is approximately \$7,000,000.00. Additionally, ad-valorem taxes are currently assessed against the property that will have to be paid.

8. Pineda moves to lift the automatic stay against its collateral pursuant to 11 U.S.C. §362(d)(1) & (2). Pineda would show that its' interest is not being adequately protected during the pending of this bankruptcy. Further, Pineda would show that the Debtor does not have equity in the property and the property is not necessary for a reorganization.

9. Pineda moves for the stay to be lifted so that it may enforce its security interest including its rights to collect and foreclose on its collateral.

Dated: February 17, 2014

Respectfully submitted,

SCHAUER& SIMANK, P.C.
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By: /s/ Ronald A. Simank
Ronald A. Simank
State Bar No. 18359400
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ATTORNEYS FOR MOVANT,
PINEDA GRANTOR TRUST II

Certificate of Conference

I conferred with Sam Chang, one of the Debtor's attorneys, concerning the Motion to Lift Stay on February 14, 2014, but no agreement could be reached on the Motion.

/s/ Ronald A. Simank
Ronald A Simank

Certificate of Service and Certificate of Compliance with BLR 4001

A copy of this motion was served on the following parties at the addresses shown on the attached Service List on February 17, 2014, by prepaid United States first class mail. Counsel for Movant certifies that Movant has complied with Bankruptcy Local Rule 4001.

/s/ Ronald A. Simank
Ronald A. Simank, Movant's Counsel

SERVICE LIST

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